Ex. # 98

DOCUMENT #217

NEW PEACE PRESERVATION LAW
Enacted by the Imperial Diet in February, 1941;
Promulgated on March 8 as Law No. 54 of the year
1941: Enforced as from same year.

The Peace Preservation Law originally was promulgated and put in force in 1925 for the purpose of curbing the communist activities, and was partially revised by an extraordinary Imperia Ordinance in 1928.

CHAPTER I.

CRIME

Article 1.

A person who has organized an association with the object of changing the national polity or a person who has performed the work of an officer or other leader of such an association shall be condemned to death or punished with penal servitude for life or not less than seven years, and a person who knowingly has joined such an association or a person who has committed an act contributing to the accomplishment of its object shall be punished with penal servitude for a limited period not less than three years.

Article 2.

A person who has organized an association with the object of aiding an association specified in the preceding Article or a person who has performed the work of an officer or other leader of such an association shall be condemned to death or punished with penal servitude for life or not less than five years, and a person who knowingly has joined such an association or a person who has committed an act contributing to the accomplishment of its object shall be punished with penal servitude for a limited period not less than two years.

Article 3.

A person who has organized an association with the object of preparing for the organization of an association specified in Article I or a person who has performed the work of an officer or other leader of such an association shall be condemned to death or punished with penal servitude for life or not less than five years, and a person who knowingly has joined such an association or who has committed an act contributing to the accomplishment of its object shall be punished with penal servitu for a limited period not less than two years.

Article 4.

A person who has organized a group with the objects stipulated in the preceding three Articles or a person who has directed such a group shall be punished with penal servitude for life or not less than three years, and a person who has joined such a group with the objects stipulated in the foregoing three Articles or a person who has committed an act contributing to the realization of the objects stipulated in the foregoing three Articles in relation to said group shall be punished with penal servitude for a limited period not less than one year.

Article 5.

A person who has conferred with other person or instigated other person with the objects mentioned in Article 1 to 3 and regarding the execution of objective matters or propagated such objective matters or committed other acts contributing to the accomplishment of the objects, shall be punished with penal servitude not less than one year and not exceeding ten years.

Article 6.

A person who has instigated sedition, violent act or other crime injurious to life, body and property of a person, with the objects stipulated in Articles 1 to 3, shall be punished with penal servitude for a limited period not less than two years.

Article 7.

A person who has organized an association with the object of circulating matters disavowing the national polity or impairing the sanctity and dignity of the Grand Shrine and the Imperial Household or a person who has performed the work of an officer or other leader of such an association shall be punished with penal servitude for a limited period not less than four years, and a person who knowingly has joined such an association or a person who has committed an act contributing to the accomplishment of its object shall be punished with penal servitude for a limited period not less than one year.

Article 8.

A person who has organized a group with the object stipulated in the foregoing Article or a person who has directed such a group shall be punished with penal servitude for life or not less than three years, and a person who, with the object stipulate in the foregoing Article, has joined said group, or a person who has committed an act contributing to the accomplishment of the object stipulated in the foregoing Article in relation to said group, shall be punished with penal servitude for a limited period not less than one year.

Article 9.

A person who has given or offered or promised to give money or other articles or property interests to another person with th object of causing him to commit either of the crimes stipulated in the preceding eight Articles, shall be punished with penal servitude not exceeding 10 years. This provision shall also apply to a person who knowingly has accepted or demanded or promised to accept said offering.

Article 10.

A person who has organized an association with the object of disavowing the system of private ownership or a person who knowingly has joined such an association or a person who has committed an act contributing to the accomplishment of the object of said association, shall be punished with penal servitude or imprisonment not exceeding 10 years.

Article 11.

A person who, with the object stipulated in the preceding Article, has conferred with other person regarding the execution of the objective matters or a person who has instigated the execution of the objective matters, shall be punished with penal servitude or imprisonment not exceeding seven years.

Article 12.

A person who, with the object stipulated in Article 10, has instigated sedition, violent act or other crime injurious to life body or property of a person, shall be punished with penal servitude or imprisonment not exceeding 10 years.

Article 13.

A person who has given or offered or promised to give money or other articles or property interests to other person with the object of causing him to commit crimes stipulated in the precedin three Articles, shall be punished with penal servitude or imprisonment not exceeding five years. This provision shall apply also to a person who knowingly has accepted or demanded or promised to accept said offering.

Article 14.

Attempts of the crimes stipulated in Articles 1 to 4, Articl Article 8 and Article 10 of the present law shall be punished.

Article 15

When a person, who had committed any of the crimes stipulate in this Chapter, has surrendered himself to justice, punishment on him shall be mitigated or remitted.

Article 16.

Provisions of this Chapter shall also be applied to any person, who has committed either of the crimes under this law outside the territories where this law is in force.

CHAPTER II

CRIMINAL PROCEDURE

Article 17.

Provisions of this Chapter shall be applied to cases of crimes stipulated in Chapter I.

Article 18.

A procurator may summon a suspect or order a judicial police officer to make such summons.

The writ of summons to be issued by the judicial police officer in accordance with an order from a Procurator shall contain the position and full name of the Procurator issuing the order as well as the statement that the writ was issued by his order.

The duties of the clerks of the court or bailiffs pertaining to service of the writ of summons may be executed by judicial police officers and men.

Article 19.

When a suspect without proper reason fails to respond to the summons made in accordance with the provisions of the preceding Article or when there exist reasons provided in each number of Article 87, Paragraph 1 of the Law of Criminal Procedures, a Procurator may arrest the suspect, or commission another Procurator to make the arrest, or order a judicial police officer to do so.

The provisions of the second paragraph of the preceding Article shall be applied to the warrant of arrest to be issued by the judicial police officer under order from the Procurator.

Article 20.

A suspect arrested shall be examined by a Procurator or a Judicial police officer within 48 hours from the time the

arrested was taken to a specified place. When no warrant of detention is issued within the said specified course of time, the Procurator shall release the suspect or cause the judicial police authorities to effect such release.

Article 21.

When causes provided for in any of the numbers in Article 87. Paragraph 1 of the Law of Criminal Procedures exist, a Procurator may detain a suspect or order a judicial police officer to effect such detention.

The provisions of Article 18, Paragraph 2 shall be correspondingly applied to the warrant of detention to be issued by a judicial police officer under order from a Procurator.

Article 22.

With respect to detention, the place of detention at the police station or at the gendarmerie may be used in lieu of a prison.

Article 23.

The period of detention shall be two months. When its extension is especially necessary, a Procurator for a local court, and a procurator for a district court, with the approval of the Chief Procurator for an appeallate court, may renew the period each month, but not inexcess of one year throughout.

Article 24.

When causes of detention have ceased to exist or when further detention is deemed unnecessary, a Procurator shall immediately release the suspects or shall cause a judicial police officer to make such release.

Article 25.

A Procurator may suspend the execution of detention by restricting the residence of a suspect.

In case there exist causes as prescribed in Article 119, paragraph 1 of the Law of Criminal Procedures, the Procurator may revoke the suspension of the execution of detention.

Article 26.

The procurator may examine a suspect or order a judicial police officer to conduct such examination.

Only before instituting a public prosecution the Procurator may examine a witness or commission another Procurator with examination or order a judicial police officer to conduct such examination.

When a judicial police officer has examined a suspect or a witness by order of a public Procurator, he shall record in the documents covering the examination the position and full name of the procurator who ordered and the fact that the examination was conducted by his order.

Article 27.

Only before instituting a public prosecution a Procurator may seize, search or obtain evidence by inspection, or may commission another Procurator or order a judicial officer to take such actions.

Only before instituting a public prosecution a Procurator may order an expert opinion, interpretation or translation, or may commission another Procurator or order a judicial police officer to make disposition of such matters.

The provisions in Paragraph 3 of the preceding Article shall correspondingly apply to the documents covering seizure, search or evidence procured by inspection and to transcript of examination of an expert witness, interpreter or translator.

The provisions of Paragraph 2 and 3 of Article 18 shall correspondingly apply to an expert opinion, interpretation and translation.

Article 28.

The provisions of the Law of Criminal Procedure regarding summons, arrest, detention, examination of defendant and witness, seizure, search, expert opinion, interpretation and translation, unless otherwise provided, shall correspondingly apply to cases of suspected persons under the present law. However, the provisions regarding bailment and provisional release shall not be applicable to the foregoing cases.

Article 29.

Attorneys shall be selected from among lawyers previously nominated by the Justice Minister, provided, however, that this provision shall not affect the application of the provisions of Article 40, Paragraph 2 of the Law of Criminal Procedure.

Article 30.

The number of attorneys shall not exceed two for each defend

The selection of attorneys shall not be made after the lapse of 10 days subsequent to the receipt of the service of summons fixing the initial date for a public trial; except cases where unavoidable causes exist when it may be made with permission of the court.

Article 31.

When an attorney intends to make copies of the documents concerning a trial, he shall obtain permission from the presiding judge or the examining judge.

Inspection by an attorney of the documents concerning a trial shall be made at a place designated by the presiding judge or the examining judge.

Article 32.

In case a public trial has been instituted against a defendant, a Procurator, when he considers it necessary, may demand transfer of the jurisdiction, provided that this shall not apply after the designation of the date for the initial trial.

The demand under the foregoing paragraph shall be made to a higher court immediately above the court to which the case originally belongs and one to which the case is to be transferred.

When the demand has been made under the provisions of Paragraph 1, the judicial procedure shall be suspended.

Article 33.

No appeal shall be allowed from the judgement of the first instance which finds any person guilty of a crime specified in Chapter 1 of the present law.

A direct review of the judgement of the first instance as provided in the preceding paragraph may be had.

An appeal may be made on grounds where it is permitted from the judgement of the second instance under the provisions of the Law of Criminal Procedure.

A court of appeal shall try a case in accordance with the procedure regarding the review of the judgement of the second instance.

Article 34.

In case an appeal is instituted against a decision of the first instance judging that either of the crimes specified in Chapter 1, the court of appeal (the Supreme Court), if there exist conspicuous reasons which enable it to suspect that a crime under the same Chapter has not been committed, shall nullify the origina decision by its own judgement and transfer the case to an Appellate Court having the jurisdiction over the case.

Article 35.

With respect to the notification of the date for a public trial the court of appeal may act free from the provisions regarding the period prescribed under Article 422, Paragraph 1 of the Law of Criminal Procedure.

Article 36.

With respect to the penal proceedings, general provisions shall be applicable to all cases except those specially prescribed

Article 37.

The provisions of this Chapter, exclusive of Articles 22, 23, 29, Article 30, Paragraph 1, Articles 32, 33 and 34, shall be correspondingly applicable regarding the penal proceedings of the court-martial. In this case, Article 87, Paragraph 1 of the Law of Criminal Procedure as given shall be Article 143 of the Law of Court Martial of the Army or Article 143 of the Law of Court-Martial of the Navy, Article 422, Paragraph 1 of the Law of Criminal Procedure as given shall be Article 444, Paragraph 1 of the Law of Court-Martial of the Navy. The clause "in case there exists a cause stipulated in Article 119, Paragraph 1 of the Law of Criminal Procedure" as given in Article 25, Paragraph 2 of the present law should read "whenever."

Article 38

In the case of Chosen (Korea), the term Justice Minister given in this law should read as the Governor-General of Chosen; the Attorney-General, as the Attorney-General for the High Court of Chosen; the Chief Procurator, as the Chief Procurator for the Court of Appeal of Chosen; public procurator for district court and public procurator for local court, as public procurator for district court of Chosen; the Law of Criminal Procedure, as the Law of Ciminal Procedure enforced under the terms of the Criminal Ordinance of Chosen, and Article 422, Paragraph 1, as Article 51 of the Criminal Ordinance of Chosen.

CHAPTER III

PREVENTIVE DETENTION

Article 39.

In case a person, who after having committed a crime specified in Chapter 1 was punished and is to be set free after expiration of his term, appears conspicuously liable to commit again a crime specified in the same Chapter, the court, upon demand from a procurator, may make decision that said person shall be subject to preventive detention.

The preceding paragraph shall also be applicable to the case of a person who after having committed a crime specified in Chapter I was punished and has served his term, or received a judgement for a stay of execution of the punishment, and has been placed under protection and surveillance in accordance with the Law of Protection and Surveillance of Ideological Criminals,

when it is considered difficult to prevent the danger of his committing a crime specified in the same Chapter and if he appears to be conspicuously liable to commit it again.

Article 40.

The demand for preventive detention shall be made by a Procurator for a district court, which has the jurisdiction over the place where the person involved has his domicile, to the same court.

When the demand for the preventive detention of the foregoing paragraph concerns a person who is under protection and surveillance it may be made by a Procurator for a District Court, which has its jurisdiction over the location of the Protection and Surveillance Office which administers the protection and surveillance of said person, to the same court.

Provisions concerning the Protection and Surveillance Commission shall be stipulated by Imperial Ordinance.

Article 41

With respect to the filing of demand for preventive detention, a Procurator may conduct necessary investigation and also may demand reports on necessary matters by referring the case to the competent public offices.

If necessary for the conduct of the investigation of the preceding Paragraph, a Procurator may have a judicial police officer bring said person over to him.

Article 42.

If necessary for the filing of demand for the preventive detention in case a person involved has no permanent residence or has run away or is liable to run away, a procurator may detain the said person provisionally in a prevention detention station, provided that the imprisonment shall not be prevented in case of unavoidable causes.

The provisional detention under the preceding Paragraph, shall not be done until after hearing of statements by the person involved. However, this shall not apply in case the said person refuses to make any statements or has run away.

Article 43.

The period of the provisional detention under the foregoing Article shall be 10 days. The person involved shall be released when demand for the preventive detention is not made within the above-specified period.

Article 44.

When preventive detention has been demanded, the court shall make a decision after hearing statements by a person involved. In this case, the court may order said person to appear before it.

The court may make a decision without hearing statements by a person involved in case he has refused to make statements or run away.

In case of demand for the preventive detention having been filed against a person prior to the expiration of his term of sentence, the court may make a decision to the effect that the person shall be subject to the preventive detention even after the expiration of his term.

Article 45.

If necessary for investigation of facts of a case the court may order a witness to appear before it and cause him to make a statement or to offer an expert opinion.

The court may demand reports on necessary matters, by referring them to the competent public offices.

Article 46.

A Procurator may appear at the court and set forth his opinion when the court causes a person involved to make statements or causes a witness to make statements of facts or to offer expert opinion.

Article 47.

The head of the family to which a person involved belongs, or a spouse, any relative by blood to the fourth degree or any relative by marriage to the third degree of said person may become a counsellor to said person, on approval of the court.

A counsellor to a person involved may appear before the court and set forth his opinion or produce data for reference, in case the court causes the involved person to make statements or causes a witness to make statements or to offer expert opinion.

Article 48.

The court may arrest a person involved in either of the following cases:

1. In case the said person has no definite residence.
2. In case the said person ran away or is liable to run away.
3. In case the said person without any proper reason fails to comply with the writ of summons under the provisions of Article 44, Paragraph 1.

Article 49.

When causes specified in No. 1 or 2 of the preceding Article exist the court may provisionally intern a person involved into a prevention detention station, provided that provisional internment in a prison shall not be prevented when unavoidable causes exist.

When a person involved is in prison the court may detain him provisionally in prison even without the causes specified in the preceding paragraph.

The provisions of Article 42, Paragraph 2 shall correspondingly apply to the cases of the first paragraph of this Article.

Article 50.

Except cases specially provided for, the provisions regarding arrest in the Law of Criminal Procedure shall correspondingly apply to the arrest under Article 48 of the present law; and the provisions regarding detention, to the provisional internment under Article 42 and the preceding Article, provided that the provisions regarding the bailment or conditional release are excepted.

Article 51.

A procurator may immediately file complaint against a decision of the court denying the preventive detention.

A person involved or his counsellor may immediately file complaint against a decision of the court for the preventive detention.

Article 52.

Except cases specially provided for, the provisions regardin decisions in the Law of Criminal Procedure shall correspondingly apply to the decisions under Article 44 of the present law; and the provisions regarding immediate complaints, to the immedia complaints under the preceding Article.

Article 53.

A person who has been placed under the preventive detention shall be interned in a preventive detention station, and necessar measures shall be taken for his reform.

Regulations governing the prevention detention stations shal be prescribed by Imperial Ordinance.

Article 54.

A person who has been placed under the preventive detention may meet other persons or exchange personal letters or other articles with them within the limitations of laws.

Censor, seizure or confiscation of personal letters or other articles may be made against a person who has been placed under the preventive detention, or other necessary measures may be taken for the preservation of peace or for disciplinary punishment. Thi provision shall also be applied to a person who has been provisionally interned, or one who has received a writ of arrest and has been detained in accordance with the provisions of this Chapter.

Article 55.

The period of the preventive detention shall be two years, which may be renewed by decision of the Court in case its continuation is necessary.

In case demand for its renewal has been filed prior to the expiration of the period of preventive detention the court may renew it even after its expiration.

Even if a decision on the renewal is made after the expiration of the period of preventive detention, it shall be regarded as having been made at the time the period expired.

The provisions of Article 40, Article 41 and Articles 44 to 52 shall be correspondingly applied to the case of renewal of the period of the preventive detention. In this case, the term prison as given in Article 49, Paragraph 2 shall read as preventive detention station.

Article 56.

The period of preventive detention shall be calculated from the day the decision is made.

The number of days on which the detention was not made, or the number of days on which detention was made in connection with the execution of punishment, even after the decision has been reached, shall not be included in the period of the preceding paragraph.

Article 57.

When a person involved is serving his term of punishment at the time of the decision, the preventive detention shall be executed after the expiration of his term.

In case the court intends to execute the preventive detention of a person involved who is in prison, the imprisonment of the said person may be continued temporarily, if specially necessary for preparations for his removal or other causes.

The execution of preventive detention may be suspended under the direction of a procurator for the court, which made the decision, or a procurator for the district court, which has the jurisdiction over the locality where said person resides, if specially necessary for detection of crime or other causes.

The provisions of Articles 534 to 536 and Articles 544 to 55[illegible] inclusive, of the Law of Criminal Procedure shall be correspondingly applied with respect to the execution of preventive detenti[illegible]

Article 58.

A person who has been subjected to preventive detention shall be released even prior to the expiration of the period stipulated in Article 55, by decision of the competent administrative office, when it has become unnecessary later to detain him further.

The provision of Article 40, Paragraph 3 shall be correspondingly applied to the case of the foregoing paragraph.

Article 59.

When preventive detention of a person has remained unexecuted for two years, a procurator for the court, which made the decision on the detention, or a procurator for the district court, which has the jurisdiction over the locality where the said person resides, may remit the execution of detention according to circumstances.

The provision of Article 40, Paragraph 3 shall be correspondingly applied to the case of the foregoing paragraph.

Article 60.

When it is considered that there is no place of safety within the preventive detention station at time of a natural calamity or incident, persons detained therein shall be removed under guard to other places. If there is no time for the removal under guard they may be released temporarily.

Those who have been released in accordance with the foregoing provision shall appear in person at the preventive detention station or a police station within 24 hours after the release.

Article 61.

In case a person who had been interned in the preventive detention station or in prison or a person to whom a warrant of arrest had been served, ran away, he shall be punished with penal servitude not exceeding one year.

This provision shall also apply to a person who was released in accordance with the provision of the first paragraph of the preceding Article and who has violated the provisions of the second paragraph of the same Article.

Article 62.

A person who has damaged or destroyed the detention equipment or committed violent or threatening act, and two or more persons

who in concert with each other have committed offense stipulated in the first paragraph of the preceding Article, shall be punished with penal servitude not less than three months and not exceeding five years.

Article 63.

Attempts of crimes stipulated in the foregoing two Articles, shall be punished.

Article 64.

Besides those stipulated in the present law, matters necessary in conjunction with preventive detention shall be prescribed by order.

Article 65.

Decisions which are to be made by the Chiho Saibansho (the District court) pertaining to preventive detention shall be made by the Collegiate Department (Gogibu) of Chiho-hoin (District Court) in Chosen.

In Chosen, the term procurator for Chiho Saibansho (District Court) as given in this Chapter shall be procurator for Chiho-hoin (District Court of Chosen); the term Law for Protection and Surveillance of "Thought Criminals," and the term Law of Criminal Procedure, the Criminal Procedure as prescribed in the Chosen Criminal Ordinance.

SUPPLEMENTARY PROVISIONS

The date for the enforcement of the present law shall be fixed by Imperial Order.

The revised provisions of Chapter I shall be applied also to a person who has committed a crime specified in the provisions enforced previous to the enforcement of this law, provided that previously prescribed punishment shall be applicable if punishment specified in the revised provisions is heavier than the former.

The revised provisions of Chapter II shall not be applicable to a case, against which a public trial had been instituted prior to the enforcement of the present law.

The revised provisions of Chapter III shall also be applicable to a person, who had been punished before the enforcement of the present law concerning a crime specified in the former provisions.

The detection proceedings which had been conducted in accordance with the provisions of Articles 12 to 15 of the Criminal Ordinance of Chosen before the enforcement of the present law shall be valid even after the enforcement of the present law.

The detection proceedings mentioned in the foregoing paragraph shall be regarded has having been conducted in accordance with the present law if they fall under the corresponding provisions of the present law.

End.